

### **REMARKS**

The comments of the applicant below are each preceded by related comments of the examiner (in small, bold type).

**Claim 1 of this application conflict with claim 28 of Application No. 10/826630, respectively. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.**

Claims 1 and 28 of application 10/826630 were amended after the rejection to claim 1 here.

**Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 28 of copending Application No. This is a provisional obviousness-type double patenting rejection.**

**As to dependent claims 2-5 are deficient in that they are derived from the independent claims as noted above.**

The applicant disagrees with the examiner's position but may file a terminal disclaimer depending on the future course of the prosecution in light of the current amendments.

**Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Lazarus et al. (U.S. Patent Number: 6,430,539)**

**As to independent claim 1, Lazarus discloses a machine-base method comprising in connection with a project generating a predictive model (e.g. creates a predictive model) based on historical data about a system being modeled (e.g., based on historical data) (see Col. 4, Lines 1 1-1 6);**

**enabling the user to validate a model development process with a predictive model (e.g., validation used to confirm model performance) (see Col. 4, Lines 25-26) between at least two subsets of the historical data (e.g., clusters/segments) (see Col. 4, Lines 11 -28; and Col. 34, Lines 20-34); and**

**applying the validated model development process to a full set of historical data (e.g., based on historical data) generate a final model (e.g. creates a predictive model) (see Col. 4, Lines 1 1-1 6).**

In claim 1, a model development process is selected from multiple model development processes. The selected model development process is applied to a subset of historical data to generate a tentative predictive model. The selected model development process is validated. And the validated model development process is applied to a full set of historical data that includes the first and second subsets to generate a final predictive model.

The examiner contended that Lazarus validated a model development process at “**prior art Col. 4, Lines 25-26 where Lazarus discloses validation used to confirm model performance**”. However, confirming model performance does not mean *validating the process of developing a model*. The model development process is not the generated model itself, but a process that generates the model. The model development process can include automatic transformations of variables of the data (e.g., specification, pages 11-16), automatic selection of transformed variables (e.g., id.), automatic generation of a predictive model (e.g., specification, pages 22-23). Lazarus did not describe and would not have made obvious any consideration of whether the *process of generating the predictive model* was valid or not.

Lazarus also did not describe and would not have made obvious “applying the validated model development *process* to a full set of the historical data that includes the first and second subsets to generate a final predictive model.” Lazarus did not validate a model development process. Of course he could not apply the validated process to a full set of historical data to generate a final predictive model. The examiner pointed to “... **Col. 4, lines 25-26 where Lazarus discloses validation used to confirm model performance; and Col. 4, Lines 11-16 for based on historical data, creates a predictive model.**” Yet the examiner’s argument effectively reverses the processes that Lazarus discussed. Lazarus described *first* generating a predictive model based on historical data and *then, second*, confirming the performance of the *generated* model using actual spending (column 4, lines 11-28). Lazarus could not validate his model, without a model already having been generated. Nor could Lazarus have used his *validated model* to further generate a final model. To generate a model, one would need a *process* instead.

In addition, Lazarus did not describe and would not have made obvious “selecting a model development process from multiple model development processes”. Lazarus used one model generation module for generating his model (column 31, lines 30-35). Lazarus did not consider different development processes or select one of the multiple processes to generate his model.

**As to independent claim 6, Lazarus discloses a machine-based method comprising in connection with a process (e.g., data processing) (see Col. 1, Line 30), using a model development process that is subject to validation (e.g., validation and analysis of the segment predictive models done to confirm model performance) (see Col. 11, Lines 21-23), to**

**enable automatic transformations of variables of the data (e.g., variables) (see Col. 11, Lines 13-23), automatic generation of a predictive model (e.g. creates a predictive model) (see Col. 4, Lines 1 1-1 6), and automatic generation of performance measures of the predictive model (e.g., confirm model performance) (see Col. 4, Lines 25-26) on at least two independent datasets of historical data (e.g., clusters/segments) (see Col. 4, Lines 11-28; Col. 11, Lines 63-67; and Col. 33, Lines 33-67); and**  
**applying a validated model development process to a full set of historical data (e.g., based on historical data) to generate a final model (e.g. creates a predictive model) (see Col. 4, Lines 11 -1 6).**

Claim 6 includes features similar to those of claim 1 and is patentable over Lazarus for at least reasons similar to those discussed with respect to claim 1.

Dependent claims are patentable for at least the reasons discussed with respect to claims 1 and 6, from which they depend.

All of the dependent claims are patentable for at least similar reasons as those for the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

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Apply \$555 for the Petition for Extension of Time fee and any other charges or credits to deposit account 06-1050, referencing attorney docket 17146-0008001.

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Respectfully submitted,



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